

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

VERRAGIO, LTD,
Plaintiff,
vs.
KD CREATIONS JEWELRY INC.,
Defendant.

Case Number: 1:19-cv-603
Assigned Judge: Hon. Virginia M. Kendall
Designated
Magistrate Judge: Hon. Mary M. Rowland

**PLAINTIFF'S MOTION THAT THE CLERK OF THE COURT ENTER A DEFAULT
AGAINST DEFENDANT KD CREATIONS JEWELRY INC.**

Plaintiff, Verragio, Ltd. (“Verragio”), respectfully requests the Clerk of the Court to enter a default against Defendant KD Creations Jewelry Inc. (“KD Creations”) pursuant to Rule 55(a) of the Federal Rules of Civil Procedure for their failure to plead or otherwise defend this action. In support of this motion, Verragio states as follows:

1. On January 29, 2019, Verragio filed a Complaint for Copyright Infringement and Trademark Infringement, alleging multiple violations of Trademark and Copyright Laws of the United States, 15 U.S.C. §§ 1051, *et seq.*, and 17 U.S.C. §§ 101, *et seq.*, respectively.

2. On February 8, 2019, Verragio properly served Defendant KD Creations with the Complaint and a Summons. *See* previously filed Executed Summons (Docket #10).

3. KD Creations’ answer to the Complaint or other responsive pleading was due within 21 days, excluding the day of service Fed. R. Civ. P. 12(a)(1). Consequently, KD Creations’ answer to the Complaint was due on or before March 1, 2019.

4. KD Creations has failed to answer, plead, or otherwise respond to the Complaint.

5. The Federal Rules of Civil Procedure distinguish between entry of default and entry of a default judgment. *Lowe v. McGraw-Hill co., Inc.*, 361 F.3d 335, 339 (7th Cir. 2004). First, the clerk of the court is directed to enter the default of “a party against whom a judgment for affirmative relief is sought” when that party “has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise.” Fed. R. Civ. P. 55(a). After the entry of default has been entered by the clerk, the party seeking default may file a motion requesting a default judgment. Fed. R. Civ. P. 55(b); *UMG Recordings, Inc. v. Stewart*, 461 F. Supp. 2d 837, 840 (S.D. Ill. 2006).

6. Because KD Creations has failed to plead or otherwise defend this action, entry of a default against them is warranted pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

WHEREFORE, Verragio respectfully requests that the Clerk of the Court enter a default against Defendant KD Creations Jewelry Inc.

Respectfully submitted,

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